

**EXHIBITS REFERENCED IN
DECLARATION OF CARTER L. DUTCH**

SCHERING CORPORATION

2000 GALLOPING HILL ROAD



KENILWORTH, N.J. 07033

TELEPHONE: (808) 298-4000

March 4, 2002

Patrick Reilly
Co-Director Pharmacy Services
Fallon Clinic
100 Hartwell St.
West Boylston, MA 01583

Re: Staff Model HMO Purchase Agreement

Dear Mr. Reilly,

At the request of David Canepa, Managed Care Area Manager, Schering Corporation is pleased to send to you for your review and approval two originals of the above-referenced Purchase Agreement between Schering Corporation and Fallon Clinic Pilgrim Health Care, Inc. - Fallon Clinic Staff.

If this Purchase Agreement is acceptable to you, please arrange to have both enclosed originals executed by an authorized representative of Fallon Clinic and return same to my attention at the above address. Upon receipt of the signed agreements, I will arrange for approval and execution of both documents by an authorized representative of Schering Corporation and return one fully executed original to your attention for your files.

This letter and the enclosed Purchase Agreement do not constitute an offer subject to acceptance and the enclosed Purchase Agreement shall not become effective unless and until the Purchase Agreement is signed by Schering Corporation.

Thank you for your continued interest in the Schering/Key product line.

Sincerely,

Jerry Ken-Kuo Re / for Craig Masker

Craig Masker

Manager, Contracts and Pricing

Enclosures

cc: David Canepa

Defendants' Exhibit

2900

01-12257 - PBS



**Staff Model HMO Purchase
Agreement
Schering Corporation**

FALLON CLINIC

Prepared for:
Fallon Clinic
100 Hartwell St.
West Boylston, MA 01583

Prepared by:
David Canepa
Managed Care Account Manager
Schering Corporation
March 4, 2002

PURCHASE AGREEMENT

This Purchase Agreement is between Fallon Clinic, ("Fallon Clinic"), having a place of business at 100 Hartwell St., West Boylston, MA 01583 and Schering Corporation ("Schering"), a Delaware corporation, having a place of business at 2000 Galloping Hill Road, Kenilworth, New Jersey 07033.

This Agreement sets forth the terms and conditions pursuant to which Schering will provide pricing to Fallon Clinic staff model health maintenance organization (the "Fallon Clinic Staff Model HMO") based, in part, on the actual dispensing of those Schering products specified in Exhibit B ("Products") to Eligible Members (as defined below) by the Fallon Clinic Staff Model HMO.

Fallon Clinic and Schering agree as follows:

ARTICLE 1. DEFINITIONS:

1.1 "Eligible Member" as used herein shall mean an individual enrolled in the Fallon Clinic Staff Model HMO; *provided, however*, that "Eligible Members" shall not include individuals who are also enrolled in other organizations that either (i) purchase any of the Products other than pursuant to this Agreement; or (ii) receive rebates based on utilization of the Products by any such individual.

1.2 "Formulary" as used herein shall mean a listing of the drugs Fallon Clinic has reviewed, approved and recommended for use at the Fallon Clinic Staff Model HMO.

1.3 "Net Direct Price" as used herein shall mean the price published from time to time by Schering as its net direct price for each Product.

ARTICLE 2. PRODUCT SALE

2.1 **Sale of Product.** Schering shall make the Products available to the Fallon Clinic Staff Model HMO through Cardinal Distribution, Inc. and McKesson HBOC (the "Prime Vendors"). Fallon Clinic shall notify Schering in writing of any change to its Prime Vendor, which Prime Vendor shall be mutually acceptable to Fallon Clinic and Schering. Schering shall report to the Prime Vendor the pricing to which the Fallon Clinic Staff Model HMO is entitled for the Products pursuant to this Agreement. The actual price for the Products paid by the Fallon Clinic Staff Model HMO to the Prime Vendor shall be as agreed upon by Fallon Clinic and its Prime Vendor.

2.2 **Product Returns.** All Product returns are subject to Schering's Institutional Returned Goods Policy attached hereto as **Exhibit A**.

2.3 **Schering Warranties and Covenants.** Schering warrants that all Product sold to the Fallon Clinic Staff Model HMO pursuant to this Agreement conforms to the descriptions set forth in each such Product's respective labeling provided that such units of the Products are used by the Fallon Clinic Staff Model HMO in accordance with such labeling.

ARTICLE 3. OBLIGATIONS OF FALLON CLINIC STAFF:

3.1 Formulary. In order to obtain the discounted pricing on each Product as detailed in **Exhibit B**, the Fallon Clinic Staff Model HMO must list such Product on its Formulary with the Formulary status for such Product detailed in **Exhibit B**. In the event the Fallon Clinic Staff Model HMO fails to satisfy the Formulary listing requirements established pursuant to this **Section 3.1** for any Product, the Fallon Clinic Staff Model HMO will not be entitled to and shall not receive the discounted pricing for such Product detailed in **Article 4**.

3.2 Own Use. Fallon Clinic hereby warrants and agrees that all Product purchased pursuant to this Agreement shall be utilized solely by the Fallon Clinic Staff Model HMO for the treatment of Eligible Members of the Fallon Clinic Staff Model HMO and not for resale or distribution. Fallon Clinic acknowledges and agrees that Schering is not required to provide a discount for any Product sold or dispensed to anyone who is not an Eligible Member of the Fallon Clinic Staff Model HMO.

3.3 Audit. Fallon Clinic agrees to institute and conduct on a regular basis random audits of the Fallon Clinic Staff Model HMO to ensure that actual dispensing of the Products complies with the terms of this Agreement, including the restrictions of **Section 3.2** hereof. Adjustments as a result of such audits shall be refunded to Schering no later than thirty (30) days after completion of such audit. Fallon Clinic shall at all times keep and maintain accurate books, records and files with respect to the Products, any reports submitted to Schering as part of the random audits completed pursuant to this Section, and all information relating to the purchase and dispensing of the Products pursuant to this Agreement. Fallon Clinic agrees that Schering shall have the right to conduct inspections and/or audits of Fallon Clinic's and/or the Fallon Clinic Staff Model HMO's books, records, and files from time to time, and that within ten (10) days following Fallon Clinic's receipt of a written request from Schering, the Fallon Clinic Staff Model HMO and/or Fallon Clinic shall make such information (and such other information necessary to confirm such information) available in a manner satisfactory to Schering, for inspection and/or audit by Schering's representatives or its designated auditors during regular business hours. Schering agrees that any such inspections and/or audits shall be subject to the requirements of state and federal law regarding the confidentiality of medical and prescription records.

ARTICLE 4. OBLIGATIONS OF SCHERING:

4.1 Discount. Subject to compliance with all of the terms and satisfaction of all of the conditions set forth in this Agreement, and subject further to the provisions of **Section 4.2** hereof, Schering shall provide Fallon Clinic with the discounted pricing set forth on **Exhibit B** for each of the Products dispensed by the Fallon Clinic Staff Model HMO for the treatment of Eligible Members. All discounts pursuant to this Agreement shall be based on Schering's Net Direct Price for Products.

4.2 Price Increases. Anything to the contrary herein notwithstanding, Schering hereby reserves the right in its sole discretion to increase the prices for the Products set forth on **Exhibit B** at any time to reflect or account for comparable increases made to its published Net Direct Price list. If Fallon Clinic receives discounts in excess of the discount percentages off Net Direct Price listed in **Exhibit B**, Schering has the right to recover such excess discounts.

4.3 Eligibility for Discounts. The Fallon Clinic Staff Model HMO's continued access to the Product discount for each Product is contingent upon Fallon Clinic complying with all of its obligations and responsibilities pertaining to such Product as detailed in this Agreement. Failure on the part of Fallon Clinic to fulfill its responsibilities or satisfy the conditions as set forth herein for a Product shall be grounds for Schering to reduce the discount for such Product to zero percent.

4.4 Ineligibility for Discounts. No discounts will be provided hereunder for:

(a) any Product which is listed on the Formulary other than as set forth in this Agreement;

(b) any units of Product for which Schering is obligated to pay rebates or provide discounts or other price reductions to any other party or governmental entity or with respect to any government health program including, without limitation Medicaid, Medicare or similar programs; and/or

(c) any units of Product which are not used or dispensed as required by this Agreement.

4.5 Excess Discounts. If Schering reasonably determines as a result of an inspection and/or audit of Fallon Clinic (or the Fallon Clinic Staff Model HMO), any notice to Schering or other information that (i) Fallon Clinic has not satisfied all of the conditions in order to obtain the discounts set forth in this Agreement, (ii) any Product purchased hereunder shall have been sold, dispensed or administered for purposes other than the Fallon Clinic Staff Model HMO's own use as set forth in Section 3.2, or (iii) all or any part of the discounts previously granted by Schering to the Fallon Clinic Staff Model HMO hereunder are not required under this Agreement, then, in each such case, Fallon Clinic shall pay to Schering an amount equal to all or any portion of such excess discount granted hereunder with respect to the Product quantities purchased by the Fallon Clinic Staff Model HMO within thirty (30) days of being notified of such excess discount by Schering.

4.6 Adjustment to Discounts. Schering reserves the right to make adjustments to the discounted pricing available hereunder based on the introduction of generic competition, a new product entry, or implementation of a MAC (Maximum Allowable Cost) program. Should Schering cease marketing/manufacturing of any of the Products, or any package size of any of the Products, then this Agreement shall terminate with regard to the Product or such package size as the case may be.

4.7 Product Availability. Subject to the provisions of the following sentence, Schering will use its reasonable commercial efforts to make all Products available to Fallon Clinic during the term of this Agreement. It is understood that some Products may be discontinued or unavailable during the term of this Agreement. Schering use its reasonable commercial efforts to Notify Fallon Clinic of such discontinuance or unavailability at the earliest date possible.

ARTICLE 5. TERM AND TERMINATION:

5.1 Term. The term of this Agreement shall commence thirty (30) days after execution by Schering. Unless sooner terminated as provided for herein, this Agreement shall remain in effect until March 31, 2004 (the "Term"). The Term may be extended only by a written amendment to this Agreement which is signed by both Fallon Clinic and Schering.

5.2 Termination Without Cause/Termination for Cause. This Agreement may be terminated by either party (a) without cause upon not less than 30 days' prior written notice to the other party, (b) if the other party is in breach of its obligations, representations or warranties set forth in this Agreement which breach is not cured within 10 days after receipt of written notice of such breach from the non-breaching party, (c) upon enactment of federal, state or local legislation, rules or regulations (collectively "Laws"), or the issuance of an interpretation of existing Laws, which, in the reasonable opinion of either party, could have a material adverse impact on such party and/or any of its affiliates (economic or otherwise) if the Agreement remained in effect unmodified or (d) upon the insolvency, dissolution, liquidation, receivership or other similar reorganization of either party, whether voluntary or involuntary.

5.3 Survival. Termination of this Agreement for whatever the reason shall not affect the rights and obligations of the parties accruing prior to the effective date of termination.

ARTICLE 6. GENERAL PROVISIONS:

6.1 Confidentiality: Fallon Clinic shall maintain the confidentiality of all the terms and conditions of this Agreement throughout the duration hereof and for a period of three (3) years following the expiration or termination of this Agreement. It is agreed by both parties hereto that the confidentiality of an Eligible Member's personal identifying information and medical report must be protected. Fallon Clinic and Fallon Clinic Staff Model HMO are each prohibited from sending to Schering reports or other information which contain the names, address, telephone number or any other information that would, in the reasonable estimation of the parties hereto, enable Schering to establish the identity of an Eligible Member. Schering may review reports with full Eligible Member names for auditing purposes only if the report remains on Fallon Clinic's premises and no copies or transcript of the Eligible Member's report are made by Schering.

6.2 Use of Health Plan Name: Schering may not use the name of Fallon Clinic or the Fallon Clinic Staff Model HMO for any advertisement or publicity or any other reason unless such use has been reviewed and approved by Fallon Clinic prior to use or publication.

6.3 Notices: Any notice required or permitted hereunder shall be given in person or sent by first class, certified mail:

To Fallon Clinic at:

Fallon Clinic
630 Plantation Street
Worcester, MA 01605
ATTN: Patrick Reilly

To Schering at:

Schering Corporation
2000 Galloping Hill Road
Kenilworth, New Jersey 07033
ATTN: Contracts & Pricing

or to such other address or to such other person as may be designated by written notice given from time to time during the term of this Agreement by one party to the other.

6.4 Force Majeure: Noncompliance with the obligations of this Agreement due to *force majeure*, laws or regulations of any government, war, civil commotion, destruction of production

facilities and materials, fire, earthquake or storm, labor disturbances, shortage of materials, failure of public utilities or common carriers, and any other causes beyond the reasonable control of the parties, shall not constitute breach of contract.

6.5 Non-Assignment: Neither party shall have the right to assign this Agreement to a third party without the prior written consent of the other party, which consent shall not be unreasonably withheld. Provided, however, that either party may assign its duties, rights and interests under this Agreement, in whole or in part, to its subsidiaries or affiliates without such prior written consent. Any permitted assignee shall assume all obligations of its assignor under this Agreement. No assignment shall relieve either party of responsibility for the performance of any obligations which have already accrued. This Agreement shall inure to the benefit of and be binding upon each party, its respective successors and permitted assigns.

6.6 Invalidity/Governing Law: If any provision of this Agreement is finally declared or found to be illegal or unenforceable by a court of competent jurisdiction, both parties shall be relieved of all obligations arising under such provision, but if capable of performance, the remainder of this Agreement shall not be affected by such declaration or finding. **This Agreement shall be governed by, and enforced and construed in accordance with, the laws of the State of New Jersey without giving effect to the conflicts of laws provision thereof.**

6.7 Indemnification: Each party hereto ("Indemnifying Party") shall indemnify and hold harmless the other party, its affiliates, and its and their respective officers, directors, agents and employees from and against any and all liability, loss, proceeding, action, damage, cost or expense of any kind, including without limitation reasonable attorneys' fees and expenses, arising out of or based upon the negligent or willful acts or omissions of the Indemnifying Party or its officers, directors, agents or employees in the performance of its or their obligations pursuant to this Agreement.

6.8 Compliance With Laws: Fallon Clinic shall, and shall cause the Fallon Clinic Staff Model HMO to, comply with all applicable laws in connection with this Agreement, including without limitation the reporting requirements and applicable provisions of 42 U.S.C. §1320a-7b (prohibiting illegal remuneration), by fully and accurately disclosing all discounts contained in this Agreement in any filings or claims made under any Federal healthcare program, including the Medicare and Medicaid programs.

6.9 Entire Agreement; Amendment: This Agreement, including the Exhibits attached hereto, contains a total integration of all rights, obligations and agreement of both parties with regard to the subject matter hereof. There are no extrinsic conditions, collateral agreements or undertakings of any kind regarding the subject matter hereof, and it is the express intentions of both parties that any and all prior or contemporaneous agreements, promises, negotiations or representations, either oral or written, relating to the subject matter hereof that are not expressly set forth herein are to have no force, effect, or legal consequences of any kind. This Agreement may only be amended by a writing signed by both parties hereto.

Schering Corporation:

By: Craig Masker
Craig Masker
Title: Manager, Contracts & Pricing
Date: 5/19/02

Fallon Clinic:

By: Patrick Reilly
Title: Co-Director, Pharmacy
Date: 3/7/02



EXHIBIT A

INSTITUTIONAL RETURNED GOODS POLICY/RX

All returns of merchandise for credit over \$10,000 must have the prior approval of an authorized Representative and must be forwarded prepaid directly to Schering Corporation, 1011 Morris Avenue, Union, New Jersey 07083.

- a. Credit will be allowed on unopened and undamaged packages at current contract prices as of date of return (except merchandise sold on a special promotion offer, in which case the invoice price will apply) as follows:
 1. For prescription products not purchased on contract, returns made within 3 months after a price increase will be credited at the price prior to the price increase.
 2. Dated products will be given full credit up to one year after expiration. No credit will be issued for products returned more than one year after expiration.
 3. Based on Schering's judgement, packages that are partially filled or show other evidence of being opened, will receive partial credit.
- b. The above adjustments will appear on Schering's credit memoranda as follows:
 1. Items given full credit will show as individual line extension.
 2. Items currently in the line for which only partial credit has been allowed will be shown as separate line extensions.
 3. Old discontinued items receiving partial credit will be included under "Miscellaneous Product".
- c. Manufacturers are expressly forbidden (under the Federal Food, Drug, and Cosmetic Act) from returning expired dated items to customers. Such items returned to Schering will be destroyed. Schering also reserves the right to destroy without credit packages that are unfit or unsafe for sale or do not comply with applicable law.
- d. Consideration will be given to adjustments for losses suffered in a natural disaster (flood, hurricane, tornado, etc.) not covered by insurance. Your Schering representative will be glad to assist you in such emergencies.
- e. Schering representatives are not permitted to modify any of the above policies.
- f. Schering reserves the right to change, alter or amend this policy by giving (30) thirty days notice.

<p>This returned goods policy does not apply to goods returned by persons other than the original wholesaler or hospital purchaser of the goods, or to goods which have been repacked in other than original Schering/Key containers.</p>

EXHIBIT B - PRICING

NDC	COMPANY PRODUCT	SIZE	% DISCOUNT FROM NDP	(1) CONTRACT PRICE	(2) FORMULARY STATUS
00085126401	CLARINEX TABLETS	100	20.0%	\$146.11	LISTED
00085126402	CLARINEX TABLETS	500	20.0%	\$730.57	LISTED
00085126403	CLARINEX TABLETS	100 U/D	20.0%	\$146.11	LISTED
00085126404	CLARINEX TABLETS	30	20.0%	\$43.83	LISTED
00085122301	CLARITIN SYRUP	16OZ	26.0%	\$96.56	LISTED
00085045803	CLARITIN TABLETS	100	20.0%	\$186.70	LISTED
00085045804	CLARITIN TABLETS	100 U/D	20.0%	\$186.70	LISTED
00085045805	CLARITIN TABLETS	30	20.0%	\$55.99	LISTED
00085045806	CLARITIN TABLETS	500	20.0%	\$933.40	LISTED
00085057102	INTRON A 10MIU	2ML	15.0%	\$100.64	LISTED
00085118402	INTRON A 3MIU SOL	6 X 0.5ML	15.0%	\$181.17	LISTED
00085064705	INTRON A 3MIU, Pak-3	6x1ML	15.0%	\$181.17	LISTED
00085012002	INTRON A 5MIU	1ML	15.0%	\$50.32	LISTED
00085012005	INTRON A 5MIU	1ML	15.0%	\$0.00	LISTED
00085119102	INTRON A 5MIU SOL	6 X 0.5ML	15.0%	\$301.95	LISTED
00085117902	INTRON A 10MIU SOL	6 X 1ML	15.0%	\$603.92	LISTED
00085111001	INTRON A 18 MIU	1ML	15.0%	\$181.17	LISTED
00085116801	INTRON A 18MIU SOL	6MIU/1ML	15.0%	\$181.17	LISTED
00085028502	INTRON A 25MIU	5ML	15.0%	\$251.63	LISTED
00085113301	INTRON A 25MIU SOL	10MIU/1ML	15.0%	\$251.63	LISTED
00085053901	INTRON A 50MIU	1ML	15.0%	\$503.26	LISTED
00085125401	INTRON A Solution Multidose Pens 10MIU	6x10MIU/.2 ml	15.0%	\$603.92	LISTED
00085124201	INTRON A Solution Multidose Pens 3MIU	6x3MIU/.2 ml	15.0%	\$181.17	LISTED
00085123501	INTRON A Solution Multidose Pens 5MIU	6x5MIU/.2 ml	15.0%	\$301.95	LISTED
00085119701	NASONEX NASAL SPRAY	17GM	35.0%	\$33.38	LISTED
00085330535	NITRO-DUR INST .1MG	30	60.0%	\$19.09	LISTED
00085331035	NITRO-DUR INST .2MG	30	60.0%	\$19.09	LISTED
00085331535	NITRO-DUR INST .3MG	30	60.0%	\$21.71	LISTED
00085332035	NITRO-DUR INST .4MG	30	60.0%	\$21.71	LISTED
00085333035	NITRO-DUR INST .6MG	30	60.0%	\$23.55	LISTED
00085081935	NITRO-DUR INST .8MG	30	60.0%	\$23.55	LISTED

EXHIBIT B – PRICING

NDC	COMPANY PRODUCT	SIZE	% DISCOUNT FROM NDP	(1) CONTRACT PRICE	(2) FORMULARY STATUS
00085061402	PROVENTIL INHALATION AEROSOL	17G	15.0%	\$25.66	LISTED
00085061403	PROVENTIL INHALATION REFILL	17G	15.0%	\$22.30	LISTED
00085020802	PROVENTIL SOLUTION	20ML	15.0%	\$15.94	LISTED
00085020901	PROVENTIL SOLUTION	25X3ML	15.0%	\$36.32	LISTED
00085123602	REBETRON 1000/MDV	1000	10.0%	\$603.24	LISTED
00085124102	REBETRON 1000/PAK-3	1000	10.0%	\$603.24	LISTED
00085125802	REBETRON 1000/PEN	1000	10.0%	\$603.24	LISTED
00085123601	REBETRON 1200/MDV	1200	10.0%	\$666.57	LISTED
00085124101	REBETRON 1200/PAK-3	1200	10.0%	\$666.57	LISTED
00085125801	REBETRON 1200/PEN	1200	10.0%	\$666.57	LISTED
00085123603	REBETRON 600/MDV	600	10.0%	\$494.03	LISTED
00085124103	REBETRON 600/PAK-3	600	10.0%	\$494.03	LISTED
00085125803	REBETRON 600/PEN	600	10.0%	\$494.03	LISTED
00085104901	VANCENASE AQ DS	19G	27.5%	\$34.87	LISTED
00085064902	VANCENASE NASAL POCKETHALER	7G	25.0%	\$29.47	LISTED
00085073602	VANCERIL INHALER	7G	25.0%	\$29.95	LISTED

- (1) Contract Price represents the contract price calculated based upon the discount percentage listed above off Schering's Net Direct Price on March 1, 2002. See Article 4.2 with regards to commercial price increases.
- (2) With respect to each Schering Product selected, non-formulary products shall be NDC blocked and/or in a third or higher tier with a co-pay arrangement differential of at least \$15.

AMENDMENT
PURCHASE AGREEMENT

AMENDMENT (the "Amendment") to Purchase Agreement dated March 4, 2002, between Fallon Clinic, ("Fallon Clinic"), having a place of business at 100 Hartwell St., West Boylston, MA 01583 and Schering Corporation ("Schering"), a Delaware corporation, having a place of business at 2000 Galloping Hill Road, Kenilworth, New Jersey 07033.

1. This Amendment supplements and amends the Purchase Agreement (Contract # 200219) as heretofore supplemented and amended ("the Agreement").
2. This Amendment shall become effective thirty (30) days after execution by Schering. This Amendment will remain in effect through March 31, 2004, unless sooner terminated in accordance with the Agreement.
3. The Agreement is hereby amended to add the Schering Products Peg-Intron and RebetoI to Exhibit B of the Agreement as set forth attached hereto.
4. Except as modified in this Amendment, the Agreement and all of its terms and conditions shall remain in full force and effect.

SCHERING CORPORATION

By: Craig Masker

Craig Masker

Manager, Contracts and Pricing

Dated: 3/17/02

Fallon Clinic

By: Patrick Reilly

Name: Patrick Reilly

Title: Co-Director, Pharmacy

Dated: 3/17/02



Defendants' Exhibit

2901

01-12257 - PBS

EXHIBIT A

(Intentionally left blank. No change from Agreement)

EXHIBIT B - PRICING

NDC	COMPANY PRODUCT	SIZE	% DISCOUNT FROM NDP	(1) CONTRACT PRICE	(2) FORMULARY STATUS
00085136801	PEG INTRON FOR INJ 0.7ML DILUENT	100mcg	2.0%	\$202.43	LISTED (a)
00085129101	PEG INTRON FOR INJ 0.7ML DILUENT	160mcg	2.0%	\$212.55	LISTED (a)
00085130401	PEG INTRON FOR INJ 0.7ML DILUENT	240mcg	2.0%	\$223.18	LISTED (a)
00085127901	PEG INTRON FOR INJ 0.7ML DILUENT	300mcg	2.0%	\$234.33	LISTED (a)
00085132704	REBETOL CAPS 200MG	42	10.0%	\$309.96	LISTED (a)
00085135105	REBETOL CAPS 200MG	56	10.0%	\$413.28	LISTED (a)
00085138507	REBETOL CAPS 200MG	70	10.0%	\$516.60	LISTED (a)
00085119403	REBETOL CAPS 200MG	84	10.0%	\$619.92	LISTED (a)

(a) Both Peg-Intron and Rebetol must be listed on Formulary.

Terms:

To be eligible for the Peg-Intron and Rebetol contract pricing set forth in Exhibit B, Fallon Clinic must provide unencumbered reimbursement for both Peg Intron and Rebetol. For the purposes of this Amendment unencumbered reimbursement for Peg Intron and Rebetol shall mean Peg Intron and Rebetol shall have an equivalent (or better) status as compared to other Hepatitis C therapies within this therapy class on Fallon Clinic's formulary or equivalent listing for injectable products.

Additionally, Fallon Clinic shall not subject Peg-Intron and Rebetol to a Restriction or Economic Penalty, whether by reason of its listing on Fallon Clinic's Formulary or otherwise. For the purposes of this Amendment and the Agreement, the term "Restriction and Economic Penalty" with respect to any product shall mean (a) making such product subject to NDC blocks or other pharmacy prompts that discourage the dispensing or prohibit reimbursement of such product, unless (i) such blocks or prompts are related to drug interactions with other prescription or over-the-counter drug products, (ii) such blocks or prompts are related to contraindications, or (iii) it becomes generally accepted in the US medical community that the use of the product should be restricted or curtailed for clinical reasons relating to patient safety.

Counter Detailing:

No contract pricing shall be provided for Peg Intron and Rebetol if during the Term of this Agreement Fallon Clinic engages in any counter-detailing or disincentivizing efforts against Peg Intron and Rebetol in favor of a competitive product within the same therapeutic class. This restriction shall apply to Fallon Clinic or any subsidiary and/or affiliate of Fallon Clinic entitled to discounts

under the terms and conditions of this Agreement. For the purposes of this Agreement, counter-detailing and disincentivizing shall include, but will not be limited to, any effort by Fallon Clinic to actively replace prescriptions for Product(s) to competitive products whether generic or branded within the same therapy class. *Schering reserves the right to renegotiate discounts on Peg Intron and Rebetol if Fallon Clinic restricts utilization of Peg Intron or Rebetol more specifically than is outlined in the FDA approved package insert for these products.*

In addition, Fallon Clinic must fulfill the following HCV Initiatives:

- Fallon Clinic shall offer Be-In-Charge enrollment to all new eligible members treated with Schering HCV Products via written communication.
- Fallon Clinic shall communicate to all affiliated I.D.'s and G.E.'s within Fallon Clinic's physician network describing the value of the Be-In-Charge program via letter distribution or other commercially acceptable methods of communication.

SCHERING CORPORATION

GALLOPING HILL ROAD

KENILWORTH, N.J. 07033

CABLES: SCHERING KENILWORTH

TELEX: 138316

138280

TELEPHONE: (908) 298-4000

November 16, 1998

RECEIVED

NOV 17 1998

TRADE FINANCIAL SERVICES

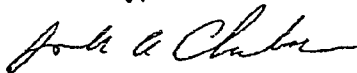
Edward S. Curran Jr., R.Ph.
Vice President, Pharmaceutical Relations
Aetna Pharmacy Management
400-1 Totten Pond Road
Waltham, MA 02154

Dear Mr. Curran:

Enclosed is your copy of the countersigned original of the Addendum to Agreement #SR4960055 between Aetna Pharmacy Management and Schering Corporation.

Thank you for your support of the Schering/Key product line. We look forward to a continued mutually beneficial relationship with Aetna Pharmacy Management.

Sincerely,



John Cheslock
Contracts and Pricing

c:Cathy Moriarty

Defendants' Exhibit

2902

01-12257 - PBS

EXHIBIT A-1 — *HMO*

For the designated contract period, Company agrees to reimburse Aetna Pharmacy Management in accordance with this Agreement, based on actual dispensing of Company Products.

1. If listed by Aetna Pharmacy Management on the published Aetna Pharmacy Management Formulary of the Members which it represents, which is communicated to Participating Affiliate Health Plans and from time to time, then Company agrees to rebate to Aetna Pharmacy Management as follows:

Base/Formulary Rebate is calculated by multiplying Schering Product Volume by Base/Formulary Rebate Percentage. Schering Product Volume for a particular product is defined as utilization of that Product by Eligible Members in Participating Affiliate Health Plans multiplied by that Product's Net Direct Price.

Market Share Rebate

Market Share Rebate is calculated by multiplying Schering Product Volume times Additional Rebate (as identified in column 'c' of Formulary Rebate Schedule), times the number of Performance Tiers achieved.

A Performance Tier is achieved each time Schering product market share exceeds the applicable Base Market Share by the full number of market share points (as identified in column 'b' of Formulary Rebate Schedule).

In no event will the combination of Base Rebate (as identified in column 'a' of Formulary Rebate Schedule) plus Market Share Rebate (defined above), exceed the Maximum Rebate (as identified in column 'd' of Formulary Rebate Schedule).

If Schering Product Market Share does not exceed Base Market Share, the Base/Formulary Rebate will apply without penalty.

Product Market Definition which will be used in determining the Market Share Rebate is defined on Attachment D.

Tiers

95-4

EXHIBIT A-1 DISCOUNT SCHEDULE FOR HMO BUSINESS					Base Step ms	Tier min
Company Product	Base/Formulary Rebate	% Points Above Base Market Share	Additional Discount	Maximum Discount		
DIPROLENE	X 11%	2%	1%	15%	31	33
ELOCON	X 11%	2%	1%	15%	46	48 5
LOTRISONE	X 8%	2%	1%	10%	41	43 4
IMDUR	X 10%	2%	1%	15%	57	59 6
INTRON	X 3%	N/A	N/A	3%	—	—
K-DUR 20 mEQ	X 11%	2%	1%	15%	52	54 6
NITRO-DUR	X 20%	2%	1%	25%	53	55 6
NORMODYNE	X 21%	2%	1%	25%	73	75 8
UNI-DUR	✓ 11%	2%	1%	15%	1	3 6
PROVENTIL Repetabs	✓ 10%	2%	1%	15%	38	40 4

* Incremental discount is based on 1% additional discount points for each 2% increase in total Rx market share above Base Market Share.

If listed by Aetna Pharmacy Management on the published Aetna Pharmacy Management Formulary of the Members which it represents, which is communicated to Participating Affiliate Health Plans and from time to time, then Company agrees to rebate to Aetna Pharmacy Management as follows:

DISCOUNT SCHEDULE FOR HMO BUSINESS	
COMPANY PRODUCT	% REBATE OFF NET DIRECT PRICE
THEO-DUR	X 12%

EXHIBIT A-2

mg choice

For the designated contract period, Company agrees to reimburse Aetna Pharmacy Management in accordance with this Agreement, based on actual dispensing of Company Products.

1. If listed by Aetna Pharmacy Management on the published Aetna Pharmacy Management Formulary of the Members which it represents, which is communicated to Participating Affiliate Health Plans and from time to time, then Company agrees to rebate to Aetna Pharmacy Management as follows:

Base/Formulary Rebate is calculated by multiplying Schering Product Volume by Base/Formulary Rebate Percentage. Schering Product Volume for a particular product is defined as utilization of that Product by Eligible Members in Participating Affiliate Health Plans multiplied by that Product's Net Direct Price.

Market Share Rebate

Market Share Rebate is calculated by multiplying Schering Product Volume times Additional Rebate (as identified in column 'c' of Formulary Rebate Schedule), times the number of Performance Tiers achieved.

A Performance Tier is achieved each time Schering product market share exceeds the applicable Base Market Share by the full number of market share points (as identified in column 'b' of Formulary Rebate Schedule).

In no event will the combination of Base Rebate (as identified in column 'a' of Formulary Rebate Schedule) plus Market Share Rebate (defined above), exceed the Maximum Rebate (as identified in column 'd' of Formulary Rebate Schedule).

If Schering Product Market Share does not exceed Base Market Share, the Base/Formulary Rebate will apply without penalty.

Product Market Definition which will be used in determining the Market Share Rebate is defined on Attachment D.

"Formulary" as used herein shall mean products which are reimbursed if included in a published formulary/prescribing guidelines and distributed to medical providers.

Tiers

EXHIBIT A-2					Base MS	MS Tier
DISCOUNT SCHEDULE FOR MANAGED CHOICE BUSINESS						
	0 Tier	1 Tier	Step	Discount Step		
Company Product	Base/Formulary Rebate	% Points Above Base Market Share	Additional Discount	Maximum Discount		
DIPROLENE	X 9%	2%	0.5%	15% 34	34	36
ELOCON	X 9%	2%	0.5%	15% 44	44	46
LOTRISONE	X 5%	2%	0.5%	10% 42	42	44
IMDUR	X 8%	2%	0.5%	15% 62	62	64
INTRON	X 3%	N/A	N/A	3%	-	-
K-DUR 20 mEQ	X 9%	2%	0.5%	15% 58	58	60
NITRO-DUR	X 15%	2%	0.5%	25% 53	53	55
NORMODYNE	X 18%	2%	0.5%	25% 68	68	70
UNI-DUR	X 9%	2%	0.5%	15% 2	2	4
PROVENTIL Repetabs	X 8%	2%	0.5%	15% 31	31	33

- * Incremental discount is based on 0.5% additional discount points for each 2% increase in total Rx market share above Base Market Share.

If listed by Aetna Pharmacy Management on the published Aetna Pharmacy Management Formulary of the Members which it represents, which is communicated to Participating Affiliate Health Plans and from time to time, then Company agrees to rebate to Aetna Pharmacy Management as follows:

DISCOUNT SCHEDULE FOR MANAGED CHOICE BUSINESS	
COMPANY PRODUCT	% REBATE OFF NET DIRECT PRICE
THEO-DUR	12%

med f/mo

SR 4960035

EXHIBIT D

MARKET DEFINITIONS

A. TOPICAL STEROID MEDIUM POTENCY

ELOCON
VALISONE
Synalar
Aristocort
Hytone
Westcort

4. Kenalog
Topicort LP
Cutivate
Aclovate
Dermatop

*Products X'd off
are already included
on a existing agreement*

SR 4950055

B. ORALLY INHALED STEROID

~~VANCERIL
Aerobid/M
Flovent
Beclomethasone Dipropionate Oral 84 micrograms*~~

Azmacort
Beclovent
Budesonide*

C. XANTHINE TABLET/CAPSULE

THEO-DUR
UNI-DUR
Slobid
Theo-24
Uniphyll

Slophylline
Theolair
Theochron

D. NASALLY INHALED STEROID

~~VANCENASE AQ/POCKETHALER
Beconase AQ/Inhaler
Nasalide
Nasacrom
Flonase
Decadron
Beclomethasone Dipropionate Nasal 84 micrograms*~~

Nasacort
Rhinocort
Dexacort

E. ANTIHISTAMINE TABLET/CAPSULE

CLARITIN/D
Hismanal
Seldane/D

~~ALL SEDATING ANTIHISTAMINES~~

*Zyrtec Ede BSC
Allegra BSC Ede
Ede BSC*

F. TRANSDERMAL NITROGLYCERIN

NITRO-DUR
Nitrodisc
Deponit

Transdermal-Nitro
NTS
Minitran

G. LONG-ACTING NITRATES TABLET/CAPSULE

IMDUR /	Ismo
Monoket	

H. POTASSIUM CHLORIDE TABLET/CAPSULE

K-DUR 10/20mEq /	Klotrix
K-Tab	Slow-K
Micro-K	Klor-Con 8/10
Ten-K	K-Lease
Koan-CI	K-Norm
K-Loq	

I. ALPHA/BETA BLOCKERS

NORMODYNE /	Trandate
-------------	----------

J. TOPICAL STEROID HIGH POTENCY

DIPROLENE /	Cyclocort
DIPROSONE	Psorcon
Temovate	Topicort
Ultravate	Lidex/E
Maxivate	

K. TOPICAL ANTIFUNGAL SINGLE/COMBO

LOTRISONE /	Nixoral
LOTRIMIN	Nizoral
Spectazole	Naftin
Monistat-Derm	Loprox
Oxistat	Mycellex
Exelderm	Lamisil

*SHALL BE INCLUDED IN THE MARKET DEFINITION UPON FDA APPROVAL.

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx'	Market Share	C/O 4Q95 Rx'	Market Share
Elocon ✓	3,039	46.01%	3,850	43.77%	3,203	40.16%
Aclovate	531	46	905		800	
Aristocort	114		65	44%	105	
Cutivate	240		471		435	
Dermatop	133		169		229	
Hytone	232		502		577	
Kenalog	54		99		187	
Synalar	74		139		196	
Topicort	39		59		89	
Valisone	50		184		256	
Westcort	2,099		2,353		1,898	
	6,605		8,796		7,975	

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx'	Market Share	C/O 4Q95 Rx'	Market Share
Uni-Dur ✓	74	0.84%	107	1.62%	147	1.39%
Slobid	2,007	1	1,410		2,030	
Slophylline	51		44	2	69	
Theo-24	467		484		913	
Theochron	1,371		823		1,421	
Theolaire	213		116		363	
Theo-Dur	3,456		2,446		4,346	
Uniphyll	1,164		1,161		1,263	
	8,803		6,591		10,552	

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx'	Market Share	C/O 4Q95 Rx'	Market Share
NOT for HMO MC Claritin ✓	19,597	42.17%	34,351	60.51%	29,880	60.20%
Hismanal	3,010		4,047		3,907	
Seldane	23,869		18,372		15,847	
	46,476		56,770		49,634	

#2 - Missing Claritin D

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx'	Market Share	C/O 4Q95 Rx'	Market Share
Nitro-Dur ✓	2,135	52.53%	845	52.98%	4,475	43.63%
Deponit	369		194		1,580	
Minitran	684	53	236	53	1,756	
Nitrodisc	13		7		65	
NTG	43		24		128	
Transdermal-Nitro	820		289		2,252	
	4,064		1,595		10,256	

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx's	Market Share	C/O 4Q95 Rx's	Market Share
Imdur ✓	565	57.48%	1,118	62.21%	3,510	51.50%
Ismo	340	57	483	62	2,354	52 ^{9/10}
Monoket	78		196		951	
	983		1,797		6,815	

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx's	Market Share	C/O 4Q95 Rx's	Market Share
K-Dur ✓	6,849	51.65%	3,851	57.64%	12,655	52.68%
K-Tab ✓	414	52	322	58	1,257	53 ^{9/10}
K-Lor	14		17		68	
K-Lease	1		2		10	
K-Norm	9		9		34	
Klor-Con 8/10	4,320		1,063		3,550	
Klotrix	99		113		408	
Kaon-CI	94		82		539	
Micro-K	1,038		791		3,979	
Slow-K	349		426		1,484	
Ten-K	74		5		40	
	13,261		6,681		24,024	

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx's	Market Share	C/O 4Q95 Rx's	Market Share
Normodyne ✓	1,616	72.96%	1,236	68.21%	2,228	70.13%
Trandate	599	73	576	68	949	78 ^{9/10}
	2,215		1,812		3,177	

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx's	Market Share	C/O 4Q95 Rx's	Market Share
Diprolene ✓	2,063	30.96%	3,199	34.46%	2,841	28.11%
Cyclocort	405	31	340	34	476	28 ^{9/10}
Diprosone	41		133		171	
Lidex	464		741		921	
Maxivate	11		35		41	
Psorcon	886		1,080		1,119	
Temovate	1,606		1,989		2,344	
Topicort	578		759		1,026	
Ultravate	609		1,007		1,167	
	6,663		9,283		10,106	

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx'	Market Share	C/O 4Q95 Rx'	Market Share
Lotrisone	4,702	40.83%	5,491	41.74%	5,868	41.44%
Exelderm	203		290		278	
Lamisil	749	41	1,782	42	2,044	
Loprox	901		685		911	
Lotrimin	32		118		130	
Monistat-Derm	28		15		97	
Mycelex	74		1		45	
Oxistat	263		369		446	
Naftin	274		344		369	
Nizoral	3,543		3,143		2,825	
Spectazole	746		917		1,147	
	<u>11,515</u>		<u>13,155</u>		<u>14,160</u>	

41%

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx'	Market Share	C/O 4Q95 Rx'	Market Share
Proventil Repetabs	1,790	37.72%	1,394	30.54%	2,039	35.63%
Alupent	7		18		42	
Brethaire	0	38	0	31	0	
Bricanyl	1,142		895		973	
Metaprel	78		58		69	
Proventil Tablets	1,045		727		1,000	
Ventolin	400		758		733	
Volmax	284		715		866	
	<u>4,746</u>		<u>4,565</u>		<u>5,722</u>	

36%

HMO

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx's	Market Share	C/O 4Q95 Rx's	Market Share
Elocon ✓	3,039	46.01%	3,850	43.77%	3,203	40.16%
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Aristocort	114		65	44	105	
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Hytone	232		502		577	
Kenalog	54		99		187	
Synalar	74		139		196	
Topicort	39		59		89	
Valisone	50		184		256	
Westcort	2,099		2,353		1,898	
	6,605		8,796		7,975	

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Uni-Dur ✓	74	0.84%	107	1.62%	147	1.39%
Slobid	2,007	1	1,410	2	2,030	1%
Slophylline	51		44		69	
Theo-24	467		484		913	
Theochron	1,371		823		1,421	
Theolair	213		116		363	
Theo-Dur	3,456		2,446		4,346	
Uniphyl	1,164		1,161		1,263	
	8,803		6,591		10,552	

NOT for HMO / MC

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#2 - Missing Claritin D

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	4,064		1,595		10,256	

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx's	Market Share	C/O 4Q95 Rx's	Market Share
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Ismo	340	57	483	62	2,354	52 1/2
Monoket	78		196		951	
	983		1,797		6,815	

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx's	Market Share	C/O 4Q95 Rx's	Market Share
K-Dur ✓	6,849	51.65%	3,851	57.64%	12,655	52.68%
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K-Lor	14		17		68	
K-Lease	1		2		10	
K-Norm	9		9		34	
Klor-Con 8/10	4,320		1,063		3,550	
Klotrix	99		113		408	
Kaon-CI	94		82		539	
Micro-K	1,038		791		3,979	
Slow-K	349		426		1,484	
Ten-K	74		5		40	
	13,261		6,681		24,024	

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx's	Market Share	C/O 4Q95 Rx's	Market Share
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Trandate	599	73	576	68	949	78 1/2
	2,215		1,812		3,177	

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx's	Market Share	C/O 4Q95 Rx's	Market Share
Diprolene ✓	2,063	30.96%	3,199	34.46%	2,841	28.11%
Cyclocort ✓	405	31	340	34	476	28 1/2
Diprosone	41		133		171	
Lidex	464		741		921	
Maxivate	11		35		41	
Psorcon	886		1,080		1,119	
Temovate	1,606		1,989		2,344	
Topicort	578		759		1,026	
Ultravate	609		1,007		1,167	
	6,663		9,283		10,106	

	HMO 4Q95 Rx's	Market Share	MC 4Q95 Rx's	Market Share	C/O 4Q95 Rx's	Market Share
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Exelderm -	203		290		278	
Lamisil /	749	41	1,782	42	2,044	41%
Loprox /	901		685		911	
Lotrimin -	32		118		130	
Monistat-Derm -	28		15		97	
Mycelex -	74		1		45	
Oxistat -	263		369		446	
Naftin -	274		344		369	
Nizoral /	3,543		3,143		2,825	
Spectazole /	746		917		1,147	
	<u>11,515</u>		<u>13,155</u>		<u>14,160</u>	

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Proventil Repetabs	1,790	37.72%	1,394	30.54%	2,039	35.63%
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Brethaire	0	38	0	31	0	36%
Bricanyl /	1,142		895		973	
Metaprel /	78		58		69	
Proventil Tablets /	1,045		727		1,000	
Ventolin -	400		758		733	
Volmax -	284		715		866	
	<u>4,746</u>		<u>4,565</u>		<u>5,722</u>	

EXHIBIT A

The following discounts for Claritin and Claritin D are contingent upon (a) Healthcare Organization listing Claritin and Claritin D along with, at Healthcare Organization's option, either Seldane and/or Seldane D or Hismanal, as the only products on the HMO and Managed Choice *closed National Formulary in the non-sedating antihistamine and antihistamine/decongestant categories, and (b) Healthcare Organization's HMO and Managed Choice plans adopting *closed National Formulary. If at any time during the term of this Agreement both (a) and (b) in the preceding sentence are not in effect, then such discounts shall not be available for Healthcare Organization, and the parties shall renegotiate such discounts in good faith.

PRODUCT	%OF CURRENT NET DIRECT PRICE
Claritin	12%
Claritin D	21% <i>Higher Disc</i>

Discount BASE SHARE TIER

The following discounts for Proventil, Vancenase, Vancenase/AQ and Vanceril, are contingent upon (a) Healthcare Organization listing these products as the exclusive albuterol inhaler, exclusive beclomethasone dipropionate/monohydrate nasal inhaler, and the exclusive beclomethasone dipropionate inhaler on the HMO and Managed Care *closed National Formulary in the corresponding therapeutic categories and (b) Healthcare Organization's HMO and Managed Choice plans adopting Healthcare Organization's *closed National Formulary. If at any time during the term of this Agreement (b) in the preceding sentence is not in effect, then such discounts shall not be available for Healthcare Organization, and the parties shall renegotiate such discounts in good faith. If at any time during the term of this Agreement only (b) in the first sentence of this paragraph is in effect and (a) is not, then the discounts available to Healthcare Organization for Proventil, Vancenase/AQ, and Vanceril, shall be set forth of the adjusted discount schedule.

PRODUCT	%OF CURRENT NET DIRECT PRICE
Proventil Inhaler	25%
Vancenase/AQ	25% <i>Higher</i>
Vanceril Inhaler	25% <i>Disc.</i>

BASE SHARE TIER

bc50824a

-17-

EXHIBIT A

One or more of the following three conditions occurs, then the corresponding discounts will be adjusted as follows:

LEFT KEY FOR BETSY. RE: IF AC FOR AKE BELOW 20 BOTH SET LOWER DISCOUNT.

PRODUCT	ADJUSTED DISCOUNT
Claritin <i>see addendum as of 2/97</i>	8%
Claritin D	18%
Proventil Inhaler	20%
Vancenase/AQ	20%
Vanceril Inhaler <i>see addendum as of 1/97</i>	20%

OTHER DISCOUNTS 11/7/97

Lower Disc

1) Healthcare Organization's market shares for the aforementioned Schering Products fall below Healthcare Organization's Base Market Share for the Market Share for the previous quarter for such Products (determined on a product by product basis).

2) Effective January 1, 1996, the Managed Choice market share for the aforementioned Schering Products is 5 or more market share points below the HMO market share.

Don't have to update CONTRACT.

3) Hard computer edits noting the non-reimbursable status of competitive non-formulary products are not in place by dates listed below:

Just review from qtr to qtr.

HMO

4 plans by 11/95
50% of membership by 6/96
70% of membership by 12/96
100% of membership by 7/97

This applies only to Claritin/D
The others have to get the lower
discount
MANAGED CHOICE
50% of membership by 3/97
85% of membership by 12/97

If such hard computer edits are not in place by such date, then, at Healthcare Organization's request upon Health Organization demonstrating best efforts to achieve such hard computer edits, Company will consider, in its sole discretion, whether to modify such hard computer edit requirements. Company shall not be required to make any such modifications.

Healthcare Organization will communicate Formulary Status in the non-sedating antihistamine class through published formulary documents by 1/1/96.

Healthcare Organization will address Schering Corporation product positioning (specifically Claritin and Claritin D) in Health Partners-a Minnesota Health Plan organization for which Healthcare Organization provides prescription services.

*closed formulary means that non-formulary products are not reimbursed and plan members will have a 100% co-pay.

**computer edits will dictate no reimbursement for non-formulary products.

7/24 Frank spoke to Brown & said

bc50824a

-18-

PURCHASE AGREEMENT

This Purchase Agreement is between Harvard Pilgrim Health Care, Inc.-Harvard Staff, ("Harvard"), having a place of business at 93 Worcester Street, Wellesley, MA 02481 and Schering Corporation ("Schering"), a Delaware corporation, having a place of business at 2000 Galloping Hill Road, Kenilworth, New Jersey 07033.

This Agreement sets forth the terms and conditions pursuant to which Schering will provide pricing to Harvard staff model health maintenance organization (the "Harvard Staff Model HMO") based, in part, on the actual dispensing of those Schering products specified in Exhibit B ("Products") to Eligible Members (as defined below) by the Harvard Staff Model HMO.

Harvard and Schering agree as follows:

ARTICLE 1. DEFINITIONS:

1.1 "Eligible Member" as used herein shall mean an individual enrolled in the Harvard Staff Model HMO; *provided, however*, that "Eligible Members" shall not include individuals who are also enrolled in other organizations that either (i) purchase any of the Products other than pursuant to this Agreement; or (ii) receive rebates based on utilization of the Products by any such individual.

1.2 "Formulary" as used herein shall mean a listing of the drugs Harvard has reviewed, approved and recommended for use at the Harvard Staff Model HMO.

1.3 "Net Direct Price" as used herein shall mean the price published from time to time by Schering as its net direct price for each Product.

ARTICLE 2. PRODUCT SALE

2.1 **Sale of Product.** Schering shall make the Products available to the Harvard Staff Model HMO through Cardinal Distribution, Inc. and AmerisourceBergen (the "Prime Vendors"). Harvard shall notify Schering in writing of any change to its Prime Vendor(s), which Prime Vendor(s) shall be mutually acceptable to Harvard and Schering. Schering shall report to the Prime Vendor(s) the pricing to which the Harvard Staff Model HMO is entitled for the Products pursuant to this Agreement. The actual price for the Products paid by the Harvard Staff Model HMO to the Prime Vendor(s) shall be as agreed upon by Harvard and its Prime Vendor(s). See attached wholesaler sheet.

2.2 **Product Returns.** All Product returns are subject to Schering's Institutional Returned Goods Policy attached hereto as **Exhibit A**.

2.3 **Schering Warranties and Covenants.** Schering warrants that all Product sold to the Harvard Staff Model HMO pursuant to this Agreement conforms to the descriptions set forth in each such Product's respective labeling provided that such units of the Products are used by the Harvard Staff Model HMO in accordance with such labeling.

ARTICLE 3. OBLIGATIONS OF HARVARD STAFF:

3.1 Formulary. In order to obtain the discounted pricing on each Product as detailed in Exhibit B, the Harvard Staff Model HMO must list such Product on its Formulary with the Formulary status for such Product detailed in Exhibit B. In the event the Harvard Staff Model HMO fails to satisfy the Formulary listing requirements established pursuant to this Section 3.1 for any Product, the Harvard Staff Model HMO will not be entitled to and shall not receive the discounted pricing for such Product detailed in Article 4.

3.2 Own Use. Harvard hereby warrants and agrees that all Product purchased pursuant to this Agreement shall be utilized solely by the Harvard Staff Model HMO for its "own use" as that term is defined by the United States Supreme Court in Portland Retail Druggists' Association, Inc. v. Abbott Laboratories et. al, 425 U.S. 1 (1976). Harvard acknowledges and agrees that Schering is not required to provide a discount for any Product sold, used or dispensed to other than for the Harvard Staff Model HMO's "own use" as described in this Section 3.2.

3.2 Audit. Harvard will use commercially reasonable efforts to institute and conduct on a regular basis random audits of the Harvard Staff Model HMO to ensure that actual dispensing of the Products complies with the terms of this Agreement, including the restrictions of Section 3.2 hereof. Adjustments as a result of such audits shall be refunded to Schering no later than thirty (30) days after completion of such audit. Harvard shall use commercially reasonable efforts to keep and maintain accurate books, records and files with respect to the Products, any reports submitted to Schering as part of the random audits completed pursuant to this Section, and all information relating to the purchase and dispensing of the Products pursuant to this Agreement. Harvard agrees that Schering shall have the right to conduct inspections and/or audits of Harvard's and/or the Harvard Staff Model HMO's books, records, and files from time to time, and that within ten (10) days following Harvard's receipt of a written request from Schering, the Harvard Staff Model HMO and/or Harvard shall make such information (and such other information necessary to confirm such information) available in a manner satisfactory to Schering, for inspection and/or audit by Schering's representatives or its designated auditors during regular business hours. Schering agrees that any such inspections and/or audits shall be subject to the requirements of state and federal law regarding the confidentiality of medical and prescription records.

ARTICLE 4. OBLIGATIONS OF SCHERING:

4.1 Discount. Subject to compliance with all of the terms and satisfaction of all of the conditions set forth in this Agreement, and subject further to the provisions of Section 4.2 hereof, Schering shall provide Harvard with the discounted pricing set forth on Exhibit B for each of the Products dispensed by the Harvard Staff Model HMO for the treatment of Eligible Members. All discounts pursuant to this Agreement shall be based on Schering's Net Direct Price for Products.

4.2 Price Increases. Anything to the contrary herein notwithstanding, Schering hereby reserves the right in its sole discretion to increase the prices for the Products set forth on Exhibit B at any time to reflect or account for comparable increases made to its published Net Direct Price list.

4.3 Eligibility for Discounts. The Harvard Staff Model HMO's continued access to the Product discount for each Product is contingent upon Harvard complying with all of its obligations and responsibilities pertaining to such Product as detailed in this Agreement. Failure on the part of Harvard to fulfill its responsibilities or satisfy the conditions as set forth herein for a Product shall be grounds for Schering to reduce the discount for such Product to zero percent.

4.4 Ineligibility for Discounts. No discounts will be provided hereunder for:

(a) any Product which is listed on the Formulary other than as set forth in this Agreement;

(b) any units of Product for which Schering is obligated to pay rebates or provide discounts or other price reductions to any other party or governmental entity or with respect to any government health program including, without limitation Medicaid, Medicare or similar programs; and/or

(c) any units of Product which are not used or dispensed as required by this Agreement.

4.5 Excess Discounts. If Schering reasonably determines as a result of an inspection and/or audit of Harvard (or the Harvard Staff Model HMO), any notice to Schering or other information that (i) Harvard has not satisfied all of the conditions in order to obtain the discounts set forth in this Agreement, (ii) any Product purchased hereunder shall have been sold, dispensed or administered for purposes other than the Harvard Staff Model HMO's own use as set forth in Section 3.2, or (iii) all or any part of the discounts previously granted by Schering to the Harvard Staff Model HMO hereunder are not required under this Agreement, then, in each such case, Harvard shall pay to Schering an amount equal to all or any portion of such excess discount granted hereunder with respect to the Product quantities purchased by the Harvard Staff Model HMO within thirty (30) days of being notified of such excess discount by Schering.

4.6 Adjustment to Discounts. Schering reserves the right to make adjustments to the discounted pricing available hereunder based on the introduction of generic competition, a new product entry, or implementation of a MAC (Maximum Allowable Cost) program. Should Schering cease marketing/manufacturing of any of the Products, or any package size of any of the Products, then this Agreement shall terminate with regard to the Product or such package size as the case may be.

ARTICLE 5. TERM AND TERMINATION:

5.1 Term. The term of this Agreement shall commence on January 1, 2002. Unless sooner terminated as provided for herein, this Agreement shall remain in effect until December 31, 2002 (the "Term"). The Term may be extended only by a written amendment to this Agreement which is signed by both Harvard and Schering.

5.2 Termination Without Cause/Termination for Cause. This Agreement may be terminated by either party (a) without cause upon not less than 30 days' prior written notice to the other party, (b) if the other party is in breach of its obligations, representations or warranties set forth in this Agreement which breach is not cured within 10 days after receipt of written notice of such breach from the non-breaching party, (c) upon enactment of federal, state or local legislation, rules or regulations (collectively "Laws"), or the issuance of an interpretation of existing Laws, which, in the reasonable opinion of either party, could have a material adverse impact on such party and/or

any of its affiliates (economic or otherwise) if the Agreement remained in effect unmodified or (d) upon the insolvency, dissolution, liquidation, receivership or other similar reorganization of either party, whether voluntary or involuntary.

5.3 **Survival.** Termination of this Agreement for whatever the reason shall not affect the rights and obligations of the parties accruing prior to the effective date of termination.

ARTICLE 6. GENERAL PROVISIONS:

6.1 **Confidentiality:** Harvard shall maintain the confidentiality of all the terms and conditions of this Agreement throughout the duration hereof and for a period of two (2) years following the expiration or termination of this Agreement. It is agreed by both parties hereto that the confidentiality of an Eligible Member's personal identifying information and medical report must be protected. Harvard and Harvard Staff Model HMO are each prohibited from sending to Schering reports or other information which contain the names, address, telephone number or any other information that would, in the reasonable estimation of the parties hereto, enable Schering to establish the identity of an Eligible Member.

6.2 **Use of Health Plan Name:** Schering may not use the name of Harvard or the Harvard Staff Model HMO for any advertisement or publicity or any other reason unless such use has been reviewed and approved by Harvard prior to use or publication.

6.3 **Notices:** Any notice required or permitted hereunder shall be given in person or sent by first class, certified mail:

To Harvard at:

Harvard Pilgrim Health Care, Inc.-Harvard Staff
Corporate Pharmacy Contracts-4th Floor
93 Worcester Street
Wellesley, MA 02481
ATTN: Kenneth Kazarosian

To Schering at:

Schering Corporation
2000 Galloping Hill Road
K-5-3 A270
Kenilworth, New Jersey 07033
ATTN: Contracts & Pricing

or to such other address or to such other person as may be designated by written notice given from time to time during the term of this Agreement by one party to the other.

6.4 **Force Majeure:** Noncompliance with the obligations of this Agreement due to *force majeure*, laws or regulations of any government, war, civil commotion, destruction of production facilities and materials, fire, earthquake or storm, labor disturbances, shortage of materials, failure of public utilities or common carriers, and any other causes beyond the reasonable control of the parties, shall not constitute breach of contract.

6.5 **Non-Assignment:** Neither party shall have the right to assign this Agreement to a third party without the prior written consent of the other party, which consent shall not be unreasonably withheld. Provided, however, that either party may assign its duties, rights and interests under this Agreement, in whole or in part, to its subsidiaries or affiliates without such

prior written consent. Any permitted assignee shall assume all obligations of its assignor under this Agreement. No assignment shall relieve either party of responsibility for the performance of any obligations which have already accrued. This Agreement shall inure to the benefit of and be binding upon each party, its respective successors and permitted assigns.

6.6 Invalidity/Governing Law: If any provision of this Agreement is finally declared or found to be illegal or unenforceable by a court of competent jurisdiction, both parties shall be relieved of all obligations arising under such provision, but if capable of performance, the remainder of this Agreement shall not be affected by such declaration or finding. This Agreement shall be governed by, and enforced and construed in accordance with, the laws of the Commonwealth of Massachusetts without giving effect to the conflicts of laws provision thereof.

6.7 Indemnification: Each party hereto ("Indemnifying Party") shall indemnify and hold harmless the other party from and against any claims, demands, costs or expenses (including reasonable attorney's fees) arising from or based upon the negligent or willful acts or omissions of the Indemnifying Party or its agents or employees under this Agreement, provided that the Indemnifying Party will have no liability to the other party under this Section 6.7 unless the Indemnifying Party is promptly notified in writing by the other party of all claims asserted and actions instituted against the other party and is given the opportunity to defend the same at its own cost and expense.

6.8 Compliance With Laws: Harvard shall, and shall cause the Harvard Staff Model HMO to, comply with all applicable laws in connection with this Agreement, including without limitation the reporting requirements and applicable provisions of 42 U.S.C. §1320a-7b (prohibiting illegal remuneration), by fully and accurately disclosing all discounts contained in this Agreement in any filings or claims made under any Federal healthcare program, including the Medicare and Medicaid programs.

6.9 Entire Agreement; Amendment: This Agreement, including the Exhibits attached hereto, contains a total integration of all rights, obligations and agreement of both parties with regard to the subject matter hereof. There are no extrinsic conditions, collateral agreements or undertakings of any kind regarding the subject matter hereof, and it is the express intentions of both parties that any and all prior or contemporaneous agreements, promises, negotiations or representations, either oral or written, relating to the subject matter hereof that are not expressly set forth herein are to have no force, effect, or legal consequences of any kind. This Agreement may only be amended by a writing signed by both parties hereto.

Schering Corporation:

By: Lawrence Ken-Kwofie
 Title: Sr. Manager, Contracts & Pricing
 Date: 4/3/02

Accepted for the (14) Harvard Pilgrim Health Care
 Harvard Vanguard (HPHC) Health Center Pharmacies
 Please allow bid pricing on a direct basis

Harvard Pilgrim Health Care, Inc.-Harvard Staff:

By: Kenneth J. Kazarosian
 Title: Kenneth J. Kazarosian, M.S., R.Ph.
Pharmacy Contracts Manager
 Date: Harvard Pilgrim Health Care
Pharmacy Operations
Corporate Pharmacy Contracts
93 Worcester Street
Wellesley, MA 02481-0002

EXHIBIT A

INSTITUTIONAL RETURNED GOODS POLICY/RX

All returns of merchandise for credit over \$10,000 must have the prior approval of an authorized Representative and must be forwarded prepaid directly to Schering Corporation, 1011 Morris Avenue, Union, New Jersey 07083.

- a. Credit will be allowed on unopened and undamaged packages at current contract prices as of date of return (except merchandise sold on a special promotion offer, in which case the invoice price will apply) as follows:
 1. For prescription products not purchased on contract, returns made within 3 months after a price increase will be credited at the price prior to the price increase.
 2. Dated products will be given full credit up to one year after expiration. No credit will be issued for products returned more than one year after expiration.
 3. Based on Schering's judgement, packages that are partially filled or show other evidence of being opened, will receive partial credit.
- b. The above adjustments will appear on Schering's credit memoranda as follows:
 1. Items given full credit will show as individual line extension.
 2. Items currently in the line for which only partial credit has been allowed will be shown as separate line extensions.
 3. Old discontinued items receiving partial credit will be included under "Miscellaneous Product".
- c. Manufacturers are expressly forbidden (under the Federal Food, Drug, and Cosmetic Act) from returning expired dated items to customers. Such items returned to Schering will be destroyed. Schering also reserves the right to destroy without credit packages that are unfit or unsafe for sale or do not comply with applicable law.
- d. Consideration will be given to adjustments for losses suffered in a natural disaster (flood, hurricane, tornado, etc.) not covered by insurance. Your Schering representative will be glad to assist you in such emergencies.
- e. Schering representatives are not permitted to modify any of the above policies.
- f. Schering reserves the right to change, alter or amend this policy by giving (30) thirty days notice.

This returned goods policy does not apply to goods returned by persons other than the original wholesaler or hospital purchaser of the goods, or to goods which have been repacked in other than original Schering/Key containers.

**EXHIBIT B
PRICING**

<u>NDC</u>	<u>COMPANY PRODUCT</u>	<u>SIZE</u>	<u>CONTRACT PRICE</u>	<u>FORMULARY STATUS*</u>
00085087905	CELESTONE PHOSPHATE INJ	5ML	\$ 14.50	LISTED ON FORMULARY
00085056605	CELESTONE SOLUSPAN SUSP	5ML	\$ 18.55	LISTED ON FORMULARY
00085094205	CELESTONE SYR .6MG 4OZ	4	\$ 33.00	LISTED ON FORMULARY
00085001101	CELESTONE TABLET PACK	100	\$ 29.34	LISTED ON FORMULARY
00085001105	CELESTONE TB .6MGX100	100	\$ 132.13	LISTED ON FORMULARY
00085051701	DIPROLENE AF CREAM	15GM	\$ 27.71	LISTED ON FORMULARY
00085051704	DIPROLENE AF CREAM	50GM	\$ 61.97	LISTED ON FORMULARY
00085063401	DIPROLENE GEL	15GM	\$ 27.71	LISTED ON FORMULARY
00085063403	DIPROLENE GEL	50GM	\$ 61.97	LISTED ON FORMULARY
00085096201	DIPROLENE LOTION	30ML	\$ 31.79	LISTED ON FORMULARY
00085096202	DIPROLENE LOTION	60ML	\$ 62.65	LISTED ON FORMULARY
00085057502	DIPROLENE OINTMENT	15GM	\$ 27.71	LISTED ON FORMULARY
00085057505	DIPROLENE OINTMENT	50GM	\$ 61.97	LISTED ON FORMULARY
00085085302	DIPROSONE CREAM	15GM	\$ 23.27	LISTED ON FORMULARY
00085085303	DIPROSONE CREAM	45GM	\$ 42.66	LISTED ON FORMULARY
00085002804	DIPROSONE LOTION	20ML	\$ 28.61	LISTED ON FORMULARY
00085002806	DIPROSONE LOTION	60ML	\$ 56.33	LISTED ON FORMULARY
00085051006	DIPROSONE OINTMENT	45GM	\$ 41.41	LISTED ON FORMULARY
00085052503	EULEXIN CAPSULES	UD	\$ 190.38	LISTED ON FORMULARY
00085052505	EULEXIN CAPSULES	500	\$ 898.06	LISTED ON FORMULARY
00085052506	EULEXIN CAPSULES	180	\$ 323.24	LISTED ON FORMULARY
00085022803	FULVICIN P/G 125MG	100	\$ 48.11	LISTED ON FORMULARY
00085065403	FULVICIN P/G 165MG	100	\$ 69.46	LISTED ON FORMULARY
00085050703	FULVICIN P/G 250MG	100	\$ 94.39	LISTED ON FORMULARY
00085035203	FULVICIN P/G 330MG	100	\$ 119.87	LISTED ON FORMULARY
00085094803	FULVICIN U/F 250MG	60	\$ 49.25	LISTED ON FORMULARY
00085094806	FULVICIN U/F 250MG	250	\$ 194.31	LISTED ON FORMULARY
00085049603	FULVICIN U/F 500MG	60	\$ 78.66	LISTED ON FORMULARY
00085049606	FULVICIN U/F 500MG	250	\$ 310.25	LISTED ON FORMULARY
00085000805	GARAMYCIN CR 1% 15GM	15	\$ 19.10	LISTED ON FORMULARY
00085006904	GARAMYCIN INJ 80MG 25X2ML VLS	80	\$ 119.83	LISTED ON FORMULARY
00085460202	INSPIREASE	1	\$ 17.39	LISTED ON FORMULARY
00085460401	INSPIREASE MOUTHPIECE	144	\$ 621.42	LISTED ON FORMULARY
00085460402	INSPIREASE REPLACE M-PIECE	1	\$ 12.59	LISTED ON FORMULARY
00085460270	INSPIREASE REPLACEMENT BAG	144	\$ 301.32	LISTED ON FORMULARY
		BAGS		
00085460203	INSPIREASE RESERVOIR BAG	3 BAGS	\$ 9.41	LISTED ON FORMULARY
00085057102	INTRON A 10MIU	2ML	\$ 106.56	LISTED ON FORMULARY
00085118402	INTRON A 3MIU SOL	6 X 0.5ML	\$ 191.83	LISTED ON FORMULARY
00085064705	INTRON A 3MIU, Pak-3	6x1ML	\$ 191.83	LISTED ON FORMULARY
00085012002	INTRON A 5MIU	1ML	\$ 53.28	LISTED ON FORMULARY
00085119102	INTRON A 5MIU SOL	6 X	\$ 319.72	LISTED ON FORMULARY
		0.5ML		
00085117902	INTRON A 10MIU SOL	6 X 1ML	\$ 639.44	LISTED ON FORMULARY
00085111001	INTRON A 18 MIU	1ML	\$ 191.83	LISTED ON FORMULARY
00085116801	INTRON A 18MIU SOL	6MIU/1ML	\$ 191.83	LISTED ON FORMULARY
00085028502	INTRON A 25MIU	5ML	\$ 266.44	LISTED ON FORMULARY
00085113301	INTRON A 25MIU SOL	10MIU/1M	\$ 266.44	LISTED ON FORMULARY
		L		
00085053901	INTRON A 50MIU	1ML	\$ 532.86	LISTED ON FORMULARY
00085125401	INTRON A Solution Multidose Pens	6x10MIU/	\$ 639.44	LISTED ON FORMULARY
	10MIU	2ml		

00085124201	INTRON A Solution Multidose Pens 3MIU	6x3MIU/2 ml	\$	191.83	LISTED ON FORMULARY
00085123501	INTRON A Solution Multidose Pens 5MIU	6x5MIU/2 ml	\$	319.72	LISTED ON FORMULARY
00085119701	NASONEX NASAL SPRAY	17GM	\$	32.42	LISTED ON FORMULARY
00085330535	NITRO-DUR INST .1MG	30	\$	39.39	LISTED ON FORMULARY
00085331035	NITRO-DUR INST .2MG	30	\$	39.98	LISTED ON FORMULARY
00085331535	NITRO-DUR INST .3MG	30	\$	44.79	LISTED ON FORMULARY
00085332035	NITRO-DUR INST .4MG	30	\$	44.79	LISTED ON FORMULARY
00085333035	NITRO-DUR INST .6MG	30	\$	48.59	LISTED ON FORMULARY
00085081935	NITRO-DUR INST .8MG	30	\$	48.59	LISTED ON FORMULARY
00085028203	OPTIMINE TABS	100	\$	99.75	LISTED ON FORMULARY
00085082003	POLARAMINE TABS 2MG	100	\$	43.56	LISTED ON FORMULARY
00085061402	PROVENTIL INHALATION AEROSOL	17G	\$	21.98	LISTED ON FORMULARY
00085113201	PROVENTIL INHALATION AEROSOL	6.7G	\$	21.17	LISTED ON FORMULARY
00085061403	PROVENTIL INHALATION REFILL	17G	\$	19.68	LISTED ON FORMULARY
00085123602	REBETRON 1000/MDV	1000	\$	603.24	LISTED ON FORMULARY
00085124102	REBETRON 1000/PAK-3	1000	\$	603.24	LISTED ON FORMULARY
00085125802	REBETRON 1000/PEN	1000	\$	603.24	LISTED ON FORMULARY
00085123601	REBETRON 1200/MDV	1200	\$	666.57	LISTED ON FORMULARY
00085124101	REBETRON 1200/PAK-3	1200	\$	666.57	LISTED ON FORMULARY
00085125801	REBETRON 1200/PEN	1200	\$	666.57	LISTED ON FORMULARY
00085123603	REBETRON 600/MDV	600	\$	494.03	LISTED ON FORMULARY
00085124103	REBETRON 600/PAK-3	600	\$	494.03	LISTED ON FORMULARY
00085125803	REBETRON 600/PEN	600	\$	494.03	LISTED ON FORMULARY
00085046003	SOLGANAL SUSPENSION	10ML	\$	118.79	LISTED ON FORMULARY
00085001204	TRILAFON INJ 5MGAMP X100	100	\$	563.40	LISTED ON FORMULARY
00085104901	VANCENASE AQ DS	19G	\$	35.11	LISTED ON FORMULARY
00085064902	VANCENASE NASAL POCKETHALER	7G	\$	29.47	LISTED ON FORMULARY
00085073604	VANCERIL INHALER	16.8G	\$	29.08	LISTED ON FORMULARY

* With respect to each Schering Product selected, non-formulary products shall be NDC blocked and/or in a third or higher tier with a co-pay arrangement differential of at least \$15.

SCHERING CORPORATION

RECEIVED

GALLOPING HILL ROAD

KENILWORTH, N.J. 07033

CABLES: SCHERING KENILWORTH

TELEX: 138316

138280

TELEPHONE: (908) 298-4000

JUN 24 1996

IDS AND CONTRACTS

CHARGEBACK AGREEMENT

CHARGEBACK AGREEMENT, dated as of July 1, 1996, by and among **SCHERING CORPORATION**, a New Jersey corporation having a place of business at 2000 Galloping Hill Road, Kenilworth, New Jersey 07033 ("Schering"), and ~~HMO Blue~~, a Massachusetts not-for-profit corporation having a place of business at 260 Cochituate Road, Framingham, MA 01701 ("Healthcare Organization").

WITNESSETH:

Schering manufactures and sells pharmaceutical products and Healthcare Organization is a staff model HMO providing medical, pharmacy and formulary services to its patients; and

This Agreement sets forth the terms and conditions upon which Schering will permit Healthcare Organization to purchase Schering products at a discount if the conditions of this Agreement are satisfied;

NOW, THEREFORE, in consideration of the covenants and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. DEFINITIONS.

1 "Formulary" means a reference book for physicians and pharmacists of Healthcare Organization listing all of the drugs (including the Products) that Healthcare Organization encourages them to prescribe and dispense to Eligible Patients.

2 "Net Direct Price" of any Product shall mean the price of such Product published by Schering from time to time as its Net Direct Price for such Product.

3 "Prime Vendor" means the relevant wholesale distributor listed as the Prime Vendor for Healthcare Organization on the signature page of this Agreement, or such other wholesale distributor of the Products specified in writing in a notice to Schering by Healthcare Organization which has agreed to participate in Schering's Prime Vendors Program and which is eligible to participate in chargeback arrangements with Schering.

Defendants' Exhibit

2937

01-12257 - PBS

4 "Product Category" with respect to any Product means the category or grouping of pharmaceutical products identified as the "Product Category" for such Product on Exhibit A hereto.

5 "Products" means those Schering pharmaceutical products set forth on Exhibit A.

6 "Report" means a written report, in a format reasonably acceptable to Schering, setting forth the following information for each Product and each other product in each Product Category dispensed by Healthcare Organization grouped by product and Product Category:

- a. the National Drug Code number for each product dispensed;
- b. the brand name or description of each such product;
- c. the date such product was dispensed;
- d. the relevant prescription number;
- e. the physician number of the prescribing physician;
- f. the quantity of such product dispensed (e.g., the number of ounces, tablets, grams, etc.); and
- g. such other information as Schering shall reasonably request.

Each report shall also include a summary of utilization of the products in each Product Category which shall list, by Product Category and product, the name of each product, the National Drug Code of such product, the aggregate number of prescriptions written for each product, the aggregate number of units of each product dispensed and the utilization percentage of each product in each Product Category.

7 "Term" means the period commencing on July 1, 1996 and terminating on June 30, 1998 unless sooner terminated as provided by this Agreement.

2. OBLIGATIONS OF HEALTHCARE ORGANIZATION.

1 **FORMULARY; UTILIZATION:** Healthcare Organization agrees that at all times during the term of this Agreement, all of the Awarded Products shall be listed on the Formulary of Healthcare Organization, (ii) such Formulary shall be distributed by Healthcare Organization to all of its physicians and to all pharmacy departments at

all of Healthcare Organization's (iii) Healthcare Organization will implement Formulary compliance programs at its respective facilities (which may include co-pay incentives, written material, point-of-sale messages and other forms of communications to Healthcare Organization's physicians and pharmacists), (iv) Healthcare Organization shall not engage in any counterdetailing or disincentivizing efforts against any Products, and (v) Healthcare Organization shall promptly notify Schering and all of its physicians and pharmacists, of any additions or changes to the Formulary status of any of the Products and the addition of any new Schering products on the applicable Formulary. In the event and to the extent that discounts contained in Exhibit A are contingent upon exclusive formulary position, Healthcare Organization further agrees to purchase sufficient quantities of such Product to satisfy not less than ninety percent (90%) of Healthcare Organization's needs of products in the appropriate Product Category for each such Product (i.e., "achieve a 90% utilization rate" for such Products).

2 OWN USE: Healthcare Organization hereby represents and agrees that all Products purchased hereunder shall be solely for its "own use" as defined in Kaiser v. DeModena, 743 F2d 1388 (1984).

3 REPORTING: In the event and to the extent that discounts contained in Exhibit A are contingent upon market share performance, Healthcare Organization shall furnish to Schering within thirty (30) days after the end of each calendar quarter a Report for all Products, and all other products in each Product Category, used or dispensed during such quarter.

4 AUDIT: Healthcare Organization agrees to institute and conduct on a regular basis random audits of its physicians and facilities to ensure that actual dispensing of Products complies with the restrictions of Section 2.2 hereof. Adjustments as a result of such audits shall be refunded to Schering no later than thirty (30) days after completion of such audit. Healthcare Organization shall at all times keep and maintain accurate books, records and files with respect to its physicians and facilities (including name, address and telephone number), reports submitted to Schering, random audits under this Section, and all information (including information made available by or to physicians) relating to the prescribing, dispensing, sale, and reimbursement of the Products. Healthcare Organization agrees that Schering shall have the right to conduct inspections and/or audits of Healthcare Organization's books, records, and files from time to time, and that within ten (10) days following Healthcare Organization's receipt of written request from Schering, Healthcare Organization shall make such information (and such other information necessary to confirm such information) available in a manner satisfactory to Schering, for inspection and/or audit by Schering's representatives or its designated auditors during regular business hours. Schering agrees that any such inspections and/or

audits shall be subject to the requirements of state and federal law regarding the confidentiality of medical and prescription records.

5 EXCESS DISCOUNTS: If Schering reasonably determines as a result of an inspection and/or audit of Healthcare Organization its respective physicians and facilities, or any one or more of them, that all or any part of the discounts previously granted by Schering to Healthcare Organization is not required under this Agreement, then Healthcare Organization shall pay to Schering an amount equal to the excess discount granted hereunder to Schering within thirty (30) days of being notified of such excess discounts by Schering.

3. PRICES.

1 DISCOUNT: Schering hereby agrees that, subject to Healthcare Organization's satisfaction of the other terms and conditions of this Agreement, including without limitation the provisions of Section 2.1 hereof, and subject further to the provisions of Section 3.2 hereof, Healthcare Organization shall be entitled to purchase each of the Products at the price for such Product set forth on Exhibit A hereto. All such purchases by Healthcare Organization shall be made through the appropriate Prime Vendor and shall be subject to such terms as shall be agreed to or otherwise in effect between Healthcare Organization and Prime Vendor.

2 PRICE INCREASES: Anything to the contrary herein notwithstanding, Schering hereby reserves the right to increase the prices for the Products, or any one or more of them, not more often than once in each calendar year, or portion thereof, during the term of this Agreement, except that no increase shall exceed ~~six~~ ^{FIVE} percent ~~(6%)~~ over the then-current price. _{5% OR LESS} ^{CHX}

4. TERMINATION: This Agreement may be terminated by any party for any reason or without reason upon thirty (30) days prior written notice. This Agreement may also be terminated immediately by Schering upon written notice to Healthcare Organization: (a) if either Healthcare Organization commits a material breach of this Agreement which is not cured within ten (10) days after receipt of written notice of same from Schering, (b) in the event of the insolvency, dissolution, liquidation, receivership, bankruptcy or similar reorganization of Healthcare Organization whether voluntary or involuntary, or (c) the enactment of federal, state or local legislation, rules or regulations, or the issuance of an interpretation of existing legislation, rules or regulations, which, in the reasonable opinion of Schering, could have a material adverse impact on Schering and/or any of its affiliates (economic or otherwise) if the Agreement remained in effect unmodified. This Agreement may also be terminated immediately by Healthcare Organization upon written notice to Schering: (a) if Schering commits a material breach of this Agreement which is not cured within ten

(10) days after receipt of written notice of same from Healthcare Organization, (b) in the event of the insolvency, dissolution, liquidation, receivership, bankruptcy or similar reorganization of Schering, whether voluntary or involuntary, or (c) the enactment of federal, state or local legislation, rules or regulations, or the issuance of an interpretation of existing legislation, rules or regulations, which, in the reasonable opinion of Healthcare Organization could have a material adverse impact on Healthcare Organization and/or any of its respective affiliates (economic or otherwise) if the Agreement remained in effect unmodified. Upon any such termination, this Agreement shall terminate in its entirety with respect to all parties.

5. GENERAL PROVISIONS.

1 CONFIDENTIALITY: Healthcare Organization shall maintain the confidentiality of all of the terms and conditions of this Agreement throughout the duration hereof and for a period of five (5) years following the effective date of termination or expiration. This covenant shall survive the expiration or termination of this Agreement.

2 INDEMNIFICATION: Each party hereto ("Indemnifying Party") shall indemnify and hold harmless each other party, its affiliates, and its and their respective officers, directors, agents and employees from and against any and all liability, loss, proceeding, action, damage, cost or expense of any kind, including without limitation reasonable attorneys fees and expenses, arising out of or based upon the negligent or willful acts or omissions of the Indemnifying Party or its officers, directors, agents or employees.

3 NOTICES: Any notice required or permitted hereunder shall be sent to the addresses set forth on page 1 hereof to the attention of the signatories hereof, by either (a) certified mail, return receipt requested, postage prepaid, or (b) recognized overnight courier service. All notices shall be effective upon receipt.

4 COMPLIANCE WITH LAWS: Healthcare Organization shall comply with all applicable laws in connection with this Agreement, including without limitation the reporting requirements and applicable provisions of 42 U.S.C. 1320a-7b. Healthcare Organization represents and warrants that it is licensed as a health plan in each State where such licensure is required.

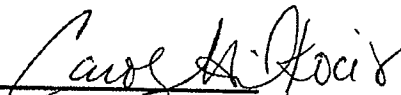
5 FORCE MAJEURE: Noncompliance with the obligations of this Agreement due to force majeure, laws or regulations of any government, war, civil commotion, destruction of production facilities and materials, fire, earthquake or storm, labor disturbances, shortage of materials, failure of public utilities or common

carriers, and any other causes beyond the reasonable control of the parties, shall not constitute breach of contract.


6 MISCELLANEOUS: No party shall have the right to assign this Agreement without the prior written consent of each non-assigning party. This Agreement shall enure to the benefit of the successors and permitted assigns of each party. This Agreement constitutes the entire Agreement between the parties relating to the subject matter hereof and supersedes all previous agreement between the parties relating to such subject matter. This Agreement may only be changed by a writing executed by the parties. **THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW JERSEY APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED ENTIRELY WITHIN THAT STATE.** This Agreement shall not apply to Products purchased for use, sale or distribution outside of the continental United States, Alaska and Hawaii. Neither party may use any patented, trademarked, service-marked or copyrighted material or any trade name of the other party without prior written permission.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

SCHERING CORPORATION

By: 
Name: Carolyn Heint Kores
Title: Sr Mgr, Contracts & Pricing

HMO Blue

By: 
Name: Gary J. Kerr
Title: Director of Pharmacy, HCD



260 Cochituate Road
Framingham, MA 01701-4608
TEL (508) 370-3040

**BLUE CROSS BLUE SHIELD MA HEALTH CENTER DIVISION
WHOLESALEERS**

James Brudnick Company
219 Medford Street
Malden, MA 02148
DEA # PJ 0115394
Phone: (617) 321-6800
Fax: (617) 397-9576
Contact: Scott Brody

Cardinal Health
11 Centennial Drive
P.O. Box 60411
Peabody, MA 01961-6041
DEA # PD 0025141
Phone: (508) 532-6900
Fax: (508) 532-6916
Contact: Joan Vaiknoras

PRIME VENDOR:

(Primary)

Name: _____

Address: _____

Telephone: _____

FAX: _____

(Secondary)

Name: _____

Address: _____

Telephone: _____

FAX: _____

HMO BLUE
7/1/96 THROUGH 6/30/98
SCHERING OFFER# 0960131

<u>PRODUCT</u>	<u>NDC</u>	<u>DESCRIPTION</u>	<u>PRICE</u>	<u>THERAPEUTIC EQUIVALENCE CODE</u>
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ALBUTEROL**PROVENTIL**

INHALER	0614-02	17G	18.95	BN
INHALER REFILL	0614-03	17G	18.95	BN
SYRUP	0315-02	473ML	29.57	AA

PROVENTIL TABLETS

2MG	0252-02	100	32.99 ✓	AB
	0252-03	500	156.81 ✓	AB
4MG	0573-02	100	49.23	AB
	0573-03	500	234.16 ✓	AB

PROVENTIL REPETABS

4MG	0431-02	100	55.30 ✓	
	0431-03	500	268.41 ✓	
	0431-04	U/D 100	69.25 ✓	

PROVENTIL SOL FOR INHALER

0.5%	0208-02	20ML	14.13	AN
0.083% UNIT DOSE	0209-01	25 X 3ML	32.28	AN

AUROTHIOGLUCOSE SUSPENSION

SOLGANAL SUSPENSION	0460-03	10ML	105.23 ✓	
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**AZATADINE MALEATE, USP &
PSEUDOPHERINE**

OPTIMINE TABLETS	0282-03	100	79.37 ✓	
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**AZATADINE MALEATE &
PSEUDOPHEDRINE SULFATE**

TRINALIN REPETABS	0703-04	100	83.08 ✓	
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BECLOMETHASONE DIPROPIONATE

** Pricing requires exclusive Formulary status

VANCENASE NASAL INHALER	0041-06	16.8G	2.95 **	
VANCENASE AQ PUMP	0259-02	25GM	16.80 **	BN ✓
VANCERIL INHALER	0736-04	16.8G	22.06 ✓	BN

BETAMETHASONE**CELESTONE**

PHOSPHATE INJ.	0879-05	5ML	13.78 ✓	AP
SOLUSPAN SUSP.	0566-05	5ML	17.63 ✓	

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BETAMETHASONE DIPROPIONATE (AUGMENTED) * when available *cut*

DIPROLENE
LOTION 0.05%

0962-01	30ML	23.15 ✓	
0962-02	60ML	45.63 ✓	

OINT. 0.05%

0575-02	15G	20.18 ✓	
0575-05	50G	47.45 * <i>cut</i>	

GEL 0.05%

0634-01	15G	20.18 ✓	
0634-03	50G	47.45 * <i>cut</i>	

DIPROLENE AF
CREAM

0517-01	15G	20.18 ✓	
0517-04	50G	47.45 * <i>cut</i>	

BETAMETHASONE DIPROPIONATE

DIPROSONE
AEROSOL 0.1%

0475-06	85G	18.46 ✓	
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CREAM 0.05%

0853-02	15G	18.46 ✓	AB
0853-03	45G	33.91 ✓	AB

LOTION 0.05%

0028-04	20ML	22.73 ✓	AB
0028-06	60ML	44.80 ✓	AB

OINT. 0.05%

0510-04	15G	18.46 ✓	AB
0510-06	45G	33.91 ✓	AB

CEFTIBUTEN

CEDAX

ORAL SUSPENSION

90MG/5ML	0777-03	30ML	17.48 *
90MG/5ML	0777-01	60ML	22.72 *
90MG/5ML	0777-02	120ML	45.82 *

CEDAX

CAPSULES

400MG	0691-01	20'S	94.76 *
400MG	0691-02	100'S	467.66 *
400MG/(10X4)	0691-03	PKG 40	192.83 *

*• National
 Market
 Share
 • Research*

CLOTRIMAZOLE

LOTTRIMIN
CREAM

0613-02	15G	9.71 ✓	AT
0613-05	30G	17.29 ✓	AT
0613-04	45G	20.99 ✓	AT

*- AT -
 - Spack -*

hmoblu

HMO BLUE
7/1/96 THROUGH 6/30/98
SCHERING OFFER# 0960131

<u>PRODUCT</u>	<u>NDC</u>	<u>DESCRIPTION</u>	<u>PRICE</u>	<u>THERAPEUTIC EQUIVALENCE CODE</u>
LOTION	0707-02	30ML	18.61 ✓	AT
SOLUTION	0182-02	10ML	8.55 ✓	AT
	0182-04	30ML	17.78 ✓	AT

**CLOTRIMAZOLE &
BETAMETHASONE DIPROPIONATE**

LOTRISONE CREAM	0924-01	15G	15.86 ✓	
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DEXCHLORPHENIRAMINE MALEATE, USP

POLARAMINE EXPECTORANT REPETABS	0268-05	473ML	47.38 ✓	
4MG	0095-03	100	59.11 ✓	
6MG	0148-03	100	82.63 ✓	
SYRUP	0016-05	473ML	36.74 ✓	AA
TABLETS (2MG)	0820-03	100	34.63 ✓	AA

DIAZOXIDE

HYPERSTAT 300MG	0201-05	20ML	81.53 ✓	AP
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DRUG DELIVERY SYSTEM

INSPIREASE Kit (1 Mthpc/3 Bags)	4602-02	1	15.44 ✓	
Replacement Bags	4602-03	3	8.33 ✓	
Replacement Bags	4602-70	144	268.06 ✓	
Replacement Mouthpieces	4604-01	144	552.92 ✓	
Replacement Mouthpiece	4604-02	1	11.15 ✓	

ETHINYL ESTRADIOL

ESTINYL TABLETS .02MG	0298-03	100	26.53 ✓	
	0298-06	250	62.45 ✓	
.05MG	0070-03	100	44.74 ✓	BP
	0070-06	250	104.48 ✓	BP
.5MG	0150-03	100	90.49 ✓	

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FLUPHENAZINE

PERMITIL CONCENTRATE	0296-05	118ML	64.78 ✓	AA
TABLETS				
2.5MG	0442-04	100	90.65 ✓	
5MG	0550-04	100	121.03 ✓	
10MG	0316-05	1000	1,436.57 ✓	

FLUTAMIDE

EULEXIN CAPSULES	0525-06	180	243.20 ✓	
	0525-05	500	675.84 ✓	
	0525-03	100 U/D	143.19 ✓	

GRISEOFULVIN

FULVICIN P/G (Ultramicrosize)				
125MG	0228-03	100	38.27 ✓	AB
165MG	0654-03	100	55.26 ✓	AB
250MG	0507-03	100	75.12 ✓	AB
330MG	0352-03	100	95.39 ✓	AB

FULVICIN U/F (Microsize)				
250MG	0948-03	60	39.15 ✓	AB
	0948-06	250	154.66 ✓	AB
500MG	0496-03	60	62.58 ✓	AB
	0496-06	250	246.98 ✓	AB

INTERFERON ALFA-2B**INTRON A**

3 MIL IU	0647-03	1ML	26.57 ✓	
3 MIL IU SYRINGE	0647-04	1ML	26.57 ✓	
3 MIL IU SYRINGE PAK	0647-05	1ML X 6	159.63 ✓	
5 MIL IU	0120-02	1ML	44.31 ✓	
5 MIL IU SYRINGE PAK	0120-05	1ML X 6	266.10 ✓	
10 MIL IU	0571-02	2ML	88.67 ✓	
10 MIL IU SYRINGE PAK	0571-06	2ML X 6	532.25 ✓	
10 MIL IU SOLUTION	0923-01	2ML	88.67 ✓	
18 MIL IU	1110-01	1ML	159.63 ✓	
18 MIL IU SOLUTION	0953-01	3ML	159.63 ✓	
25 MIL IU	0285-02	5ML	221.75 ✓	
25 MIL IU SOLUTION	0769-01	5ML	221.75 ✓	
50 MIL IU	0539-01	1ML	443.52 ✓	

601
61
INTO

HMO BLUE
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<u>PRODUCT</u>	<u>NDC</u>	<u>DESCRIPTION</u>	<u>PRICE</u>	<u>THERAPEUTIC EQUIVALENCE CODE</u>
<u>LABETALOL</u>				
NORMODYNE INJECTION				
20ML VIAL	0362-07	20ML	26.80 ✓	AP
40ML VIAL	0362-06	40ML	51.91 ✓	AP
4ML SYRINGE	0362-08	4ML	11.57 ✓	
8ML SYRINGE	0362-09	8ML	17.36 ✓	
NORMODYNE TABLETS				
100MG	0244-04	100	36.90 ✓	AB
	0244-05	500	175.09 ✓	AB
	0244-07	1000	322.87 ✓	AB
	0244-08	U/D 100	39.19 ✓	AB
200MG	0752-04	100	52.35 ✓	AB
	0752-05	500	248.68 ✓	AB
	0752-07	1000	458.41 ✓	AB
	0752-08	U/D 100	54.63 ✓	AB
300MG	0438-03	100	69.63 ✓	AB
	0438-05	500	330.68 ✓	AB
	0438-06	U/D 100	71.93 ✓	AB
<u>LORATADINE</u>				
<u>CLARITIN</u>				
10MG	0458-01	14	28.87 ✓	
	0458-03	100	155.06 ✓	
	0458-04	U/D 100	155.06 ✓	
	0458-06	500	775.27 ✓	
	0458-05	30	46.52 ✓	
<u>MOMETASONE FUROATE</u>				
ELOCON				
CREAM	0567-01	15G	12.94 ✓	
	0567-02	45G	24.89 ✓	
LOTION	0854-01	30ML	14.02 ✓	
	0854-02	60ML	26.76 ✓	
OINTMENT	0370-01	15G	12.94 ✓	
	0370-02	45G	24.89 ✓	
<u>NETILMICIN SULFATE</u>				
NETROMYCIN INJECTION				
150MG VIAL	0264-02	10 x 1.5ML	111.91 ✓	

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<u>NITROGLYCERIN</u>				
NITRO-DUR TRANSDERMAL				
.1MG/HR	3305-35	30 patches	33.83 ✓	
.2MG/HR	3310-35	30 patches	34.34 ✓	
.3MG/HR	3315-35	30 patches	38.48 ✓	
.4MG/HR	3320-35	30 patches	38.48 ✓	
.6MG/HR	3330-35	30 patches	41.73 ✓	
.8MG/HR	0819-35	30 patches	41.73 ✓	
<u>PERPHENAZINE</u>				
TRILAFON CONCENTRATE	0363-02	118ML	31.77 ✓	
TRILAFON INJECTION 5MG/ML	0012-04	100 X 1ML	473.44 ✓	
TRILAFON TABLETS				
2MG	0705-04	100	55.81 ✓	AB
4MG	0940-05	100	76.37 ✓	AB
8MG	0313-05	100	92.68 ✓	AB
16MG	0077-05	100	124.69 ✓	AB
<u>PERPHENAZINE & AMITRIPTYLINE</u>				
ETRAFON				
TABS (2-10)	0287-04	100	58.66 ✓	BP
	0287-08	U/D 100	61.86 ✓	BP
ETRAFON				
TABS (2-25)	0598-04	100	74.61 ✓	BP
	0598-08	U/D 100	77.74 ✓	BP
ETRAFON FORTE				
TABS (4-25)	0720-04	100	81.04 ✓	BP
	0720-08	U/D 100	84.23 ✓	BP
<u>POTASSIUM CHLORIDE</u>				
K-DUR TABS				
10MEQ	0263-01	100	18.79 ✓	
10MEQ	0263-81	100 U/D	19.47 ✓	
20MEQ	0787-01	100	32.56 ✓	
20MEQ	0787-81	100 U/D	35.28 ✓	

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<u>SULFACETAMIDE SODIUM</u>				
SODIUM SULAMYD				
OPHTH. OINT. 10%	0066-03	3.5G*	13.72 ✓	AT
OPHTH. SOL. 10%	0946-03	25 X 5ML	327.88 ✓	AT
	0946-06	15ML	16.77 ✓	AT
OPHTH. SOL. 30%	0717-06	15ML	17.79 ✓	AT
* MAY BE PURCHASED ONLY IN MULTIPLES OF 6.				

THEOPHYLLINE ANHYDROUS

THEO-DUR S/A TABS				
100MG	0487-01	100	15.21 ✓	AB
	0487-05	500	71.69 ✓	AB
	0487-10	1000	138.81 ✓	AB
	0487-50	5000	655.98 ✓	AB
	0487-81	U/D 100	22.79 ✓	AB
200MG	0933-01	100	22.65 ✓	AB
	0933-05	500	106.79 ✓	AB
	0933-10	1000	201.66 ✓	AB
	0933-50	5000	978.64 ✓	AB
	0933-81	U/D 100	28.25 ✓	AB
300MG	0584-01	100	26.90 ✓	AB
	0584-05	500	126.83 ✓	AB
	0584-10	1000	245.42 ✓	AB
	0584-50	5000	1161.76 ✓	AB
	0584-81	U/D 100	33.63 ✓	AB
450MG	0806-01	100	35.72 ✓	
	0806-81	U/D 100	44.66 ✓	

THEOPHYLLINE ANHYDROUS EXTENDED-RELEASE

UNI-DUR TABS				
400MG	0694-01	100	78.63 ✓	
600MG	0814-01	100	85.97 ✓	

Uni phyll

*Get Info
- Please just*